

Remarks

Applicants request amendment of Claim 4 to incorporate the limitations of claims 19, 27, and claim 24 from which claim 27 originally depended, as well as the allowable compounds of claims 39 and 40 to the extent that such compounds are not within the limitations of claims 19, 24, and 27. Applicants maintain that the amendment to Claim 4 incorporates the limitations set forth in the stated dependent claims, and thus the amendments are fully supported by the original application. Applicants hereby confirm that all inventors had a common obligation to assign the claimed invention to Eli Lilly and Company.

Objections to the Claims

Claims 4, 10, 12, 21, 22, 30, 32, 36, 37, 39, 56, and 57 have been amended, withdrawn or canceled as suggested by the Examiner to correct obvious errors or informalities.

Rejections under 102 and 103

Applicants maintain that in light of the amendments to Claim 4, incorporating the limitations set forth in claims stated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim, Claim 4, and all claims depending there from should be allowable in light of the amendments.

Further, Applicants maintain that the amendments to Claim 4 address the rejections under 35 USC 102 (a & e) by ensuring that the R10 and/or R33 and/or Y substituents remove any alleged anticipation by US Patent 7,091,237. Additionally, the pharmaceutical art is unpredictable. *In re Fisher*, 427 F.2d 833, 839, 166 USPQ 18 (CCPA 1970). Applicants respectfully traverse the rejection under 35 USC 103, and have amended the claims in the interest of expediting prosecution of this application. Applicants maintain that the claimed compounds are non-obvious. Applicants agree with the Examiner's assessment that Claims 19, 27, and 40 would be patentable if rewritten in independent form. Applicants submit that the rejections under 35 USC 102 and 103 may properly be withdrawn.

35 USC 112

Applicants maintain that Claims 51, and 53-55 have been canceled, rendering the rejection under 35 USC 112, first paragraph, now moot. Applicants request withdrawal of the rejection under 35 USC 112.

Rejoinder

Applicants gratefully acknowledge the Examiner's rejoinder of Claims 5, 26, 27, 30-32, 38, in part, and 39 for purposes of the search and examination of the invention.

Applicants request entry of the amendments prior to any further action on the merits. Applicants wish to further prosecution of the application, with prompt passage to allowance. Applicants request favorable reconsideration.

Any matters relating to this application may be addressed by telephone to the undersigned attorney at 317-276-1665, if such discussion may further prosecution of the application.

Respectfully submitted,

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